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# A BILL FOR AN ACT

RELATING TO TAXATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 PART I

2 SECTION 1. The legislature finds that the development of  
3 housing is of critical importance to the State. Historically,  
4 the development of infrastructure (e.g., water, drainage, sewer,  
5 waste disposal, and waste treatment systems) to support housing  
6 has been the responsibility of the developers of housing  
7 projects. Accordingly, housing developers were responsible for  
8 raising large, additional amounts of capital to finance required  
9 infrastructure. These high infrastructure costs are often cited  
10 by developers as a major impediment to the development of  
11 housing. Furthermore, these costs are ultimately passed on to  
12 homebuyers, which drives up the prices of new homes.  
13 Ultimately, the cost of infrastructure is a reason why homes are  
14 so expensive, to the point of being unobtainable for many local  
15 families.

16 The legislature further finds that because developers are  
17 focused on their specific housing development projects, there



1 are few incentives for the developers to design infrastructure  
2 in a manner that takes into account state and county planning  
3 objectives, long-range planning, or regional or island-wide  
4 cohesion. As a result, infrastructure development is often done  
5 in a haphazard, piecemeal manner that is problematic for county  
6 residents and governments alike. For example, infrastructure  
7 has been developed in inconvenient locations, isolated from  
8 necessary societal services to which residents would require  
9 access.

10 Accordingly, the legislature further finds that it is in  
11 the best interest of the people of Hawaii to implement a policy  
12 shift with regard to the development of housing. Specifically,  
13 the counties, rather than private developers, should be  
14 responsible for the location, planning, and development of  
15 infrastructure to support housing. The legislature believes  
16 that authorizing a county to use revenues from the county  
17 surcharge on state tax for housing infrastructure would provide  
18 the funding necessary to effect this change in policy.

19 The legislature believes that the implementation of this  
20 policy would result in more efficient community planning. In  
21 particular, because counties typically take ownership of



1 infrastructure upon completion of a housing project, it makes  
2 sense for the counties to also take ownership over the  
3 placement, infrastructure planning, and construction process.  
4 By taking charge of this process, counties would be able to  
5 direct the development of housing in locations that make the  
6 most sense. Counties can also ensure that infrastructure  
7 systems are designed in a manner that minimizes long-term  
8 operational and maintenance costs, allowing for better  
9 management of public resources.

10 Perhaps most significantly, under this policy, housing  
11 developers would no longer need to finance the costs of  
12 installing infrastructure up front, and homebuyers would no  
13 longer see these high costs passed on to them. This will result  
14 in lower housing prices, making home ownership attainable for  
15 more residents, and situating new housing developments closer to  
16 needed societal services.

17 Accordingly, the purpose of this Act is to:

18 (1) Extend the period in which a county may adopt a  
19 surcharge on state tax, under certain conditions, from  
20 March 31, 2019, to December 31, 2023;



- 1           (2) Authorize, in certain instances, the use of county
- 2                    surcharge revenues for housing infrastructure; and
- 3           (3) Temporarily authorize counties that have previously
- 4                    adopted a surcharge on state tax to amend the rates
- 5                    and uses of the surcharge.

PART II

7           SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§46-16.8 County surcharge on state tax.** (a) Each county  
10 may establish a surcharge on state tax at the rates enumerated  
11 in sections 237-8.6 and 238-2.6. A county electing to establish  
12 this surcharge shall do so by ordinance; provided that:

- 13           (1) No ordinance shall be adopted until the county has
- 14                    conducted a public hearing on the proposed ordinance;
- 15           (2) The ordinance shall be adopted prior to December 31,
- 16                    2005; and
- 17           (3) No county surcharge on state tax that may be
- 18                    authorized under this subsection shall be levied prior
- 19                    to January 1, 2007, or after December 31, 2022, unless
- 20                    extended pursuant to subsection (b).



1 Notice of the public hearing required under paragraph (1) shall  
2 be published in a newspaper of general circulation within the  
3 county at least twice within a period of thirty days immediately  
4 preceding the date of the hearing.

5 A county electing to exercise the authority granted under  
6 this subsection shall notify the director of taxation within ten  
7 days after the county has adopted a surcharge on state tax  
8 ordinance and, beginning no earlier than January 1, 2007, the  
9 director of taxation shall levy, assess, collect, and otherwise  
10 administer the county surcharge on state tax.

11 (b) Each county that has established a surcharge on state  
12 tax prior to July 1, 2015, under authority of subsection (a) may  
13 extend the surcharge until December 31, 2030, at the same rates.  
14 A county electing to extend this surcharge shall do so by  
15 ordinance; provided that:

16 (1) No ordinance shall be adopted until the county has  
17 conducted a public hearing on the proposed ordinance;  
18 and

19 (2) The ordinance shall be adopted prior to January 1,  
20 2018.



1           A county electing to exercise the authority granted under  
2 this subsection shall notify the director of taxation within ten  
3 days after the county has adopted an ordinance extending the  
4 surcharge on state tax. The director of taxation shall levy,  
5 assess, collect, and otherwise administer the extended surcharge  
6 on state tax.

7           (c) Each county that has not established a surcharge on  
8 state tax prior to July 1, 2015, may establish the surcharge at  
9 the rates enumerated in sections 237-8.6 and 238-2.6. A county  
10 electing to establish this surcharge shall do so by ordinance;  
11 provided that:

- 12           (1) No ordinance shall be adopted until the county has  
13           conducted a public hearing on the proposed ordinance;
- 14           (2) The ordinance shall be adopted prior to [~~March 31,~~  
15           ~~2019,~~] December 31, 2023; and
- 16           (3) No county surcharge on state tax that may be  
17           authorized under this subsection shall be levied prior  
18           to January 1, 2019, or after December 31, 2030.

19           A county electing to exercise the authority granted under  
20 this subsection shall notify the director of taxation within ten  
21 days after the county has adopted a surcharge on state tax



1 ordinance. Beginning on January 1, 2019, [~~or~~] January 1, 2020,  
2 or January 1, 2025, as applicable, pursuant to sections 237-8.6  
3 and 238-2.6, the director of taxation shall levy, assess,  
4 collect, and otherwise administer the county surcharge on state  
5 tax.

6 (d) Each county that has established a surcharge on state  
7 tax prior to March 31, 2019, under authority of subsections (a)  
8 or (c) may amend the surcharge ordinance to change the county's  
9 surcharge rate, within the rates enumerated in sections 237-8.6  
10 and 238-2.6, or the authorized uses of surcharge revenues,  
11 pursuant to subsection (g); provided that:

12 (1) No ordinance shall be amended pursuant to this section  
13 until the county has conducted a public hearing on the  
14 proposed amendment;

15 (2) The ordinance shall be amended prior to December 31,  
16 2023; and

17 (3) Any change to a surcharge rate under this subsection  
18 shall not be effective prior to January 1, 2025.

19 [~~d~~] (e) Notice of the public hearing required under  
20 subsection (b) [~~or~~], (c), or (d), before adoption or amendment  
21 of an ordinance establishing or extending the surcharge on state



1 tax shall be published in a newspaper of general circulation  
2 within the county at least twice within a period of thirty days  
3 immediately preceding the date of the hearing.

4       ~~(e)~~ (f) Each county with a population greater than five  
5 hundred thousand that adopts or extends a county surcharge on  
6 state tax ordinance pursuant to subsection (a) or (b) shall use  
7 the surcharge revenues received from the State for capital costs  
8 of a locally preferred alternative for a mass transit project;  
9 provided that revenues derived from the county surcharge on  
10 state tax shall not be used:

11       (1) To build or repair public roads or highways, bicycle  
12 paths, or support public transportation systems  
13 already in existence prior to July 12, 2005;

14       (2) For operating costs or maintenance costs of the mass  
15 transit project or any purpose not consistent with  
16 this subsection; or

17       (3) For administrative or operating, marketing, or  
18 maintenance costs, including personnel costs, of a  
19 rapid transportation authority charged with the  
20 responsibility for constructing, operating, or  
21 maintaining the mass transit project;



1 provided further that nothing in this section shall be construed  
2 to prohibit a county from using county funds that are not  
3 derived from a surcharge on state tax for a purpose described in  
4 paragraph (2) or (3).

5 ~~[(f)]~~ (g) Each county ~~[with]~~ having a population equal to  
6 or less than five hundred thousand that adopts a county  
7 surcharge on state tax ordinance pursuant to this section prior  
8 to January 1, 2023, shall use the surcharges received from the  
9 State for:

- 10 (1) Operating or capital costs of public transportation  
11 within each county for public transportation systems,  
12 including public roadways or highways, public buses,  
13 trains, ferries, pedestrian paths or sidewalks, or  
14 bicycle paths; ~~[and]~~
- 15 (2) Expenses in complying with the Americans with  
16 Disabilities Act of 1990 with respect to paragraph (1)  
17 ~~[-]~~; and
- 18 (3) Housing infrastructure; provided that a county that  
19 uses surcharge revenues for housing infrastructure  
20 shall not pass on related infrastructure costs to the  
21 developer of a housing project;



1 provided that each county having a population equal to or less  
2 than five hundred thousand that adopts a county surcharge on  
3 state tax ordinance pursuant to this section after December 31,  
4 2022, shall use the surcharges received from the State only for  
5 the purposes described in paragraph (3).

6 [~~g~~] (h) As used in this section~~[7]~~:

7 [~~capital~~] "Capital costs" means nonrecurring costs  
8 required to construct a transit facility or system, including  
9 debt service, costs of land acquisition and development,  
10 acquiring of rights-of-way, planning, design, and construction,  
11 and including equipping and furnishing the facility or system.  
12 For a county with a population greater than five hundred  
13 thousand, capital costs also include non-recurring personal  
14 services and other overhead costs that are not intended to  
15 continue after completion of construction of the minimum  
16 operable segment of the locally preferred alternative for a mass  
17 transit project.

18 "Housing infrastructure" includes water, drainage, sewer,  
19 waste disposal, and waste treatment systems that connect to the  
20 infrastructure of the county. "Infrastructure" also includes



1 pedestrian paths or sidewalks on a county road near or around a  
2 public school."

3 SECTION 3. Section 237-8.6, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) Each county surcharge on state tax that may be  
6 adopted or extended pursuant to section 46-16.8 shall be levied  
7 beginning in a taxable year after the adoption of the relevant  
8 county ordinance; provided that no surcharge on state tax may be  
9 levied:

10 (1) Prior to:

11 (A) January 1, 2007, if the county surcharge on state  
12 tax was established by an ordinance adopted prior  
13 to December 31, 2005;

14 (B) January 1, 2019, if the county surcharge on state  
15 tax was established by the adoption of an  
16 ordinance after June 30, 2015, but prior to  
17 June 30, 2018; [~~or~~]

18 (C) January 1, 2020, if the county surcharge on state  
19 tax was established by the adoption of an  
20 ordinance on or after June 30, 2018, but prior to  
21 March 31, 2019; [~~and~~] or



1           (D) January 1, 2025, if the county surcharge on state  
 2           tax was established by the adoption of an  
 3           ordinance on or after March 31, 2019, but prior  
 4           to December 31, 2023; and

5           (2) After December 31, 2030."

6           SECTION 4. Section 238-2.6, Hawaii Revised Statutes, is  
 7 amended by amending subsection (b) to read as follows:

8           "(b) Each county surcharge on state tax that may be  
 9 adopted or extended shall be levied beginning in a taxable year  
 10 after the adoption of the relevant county ordinance; provided  
 11 that no surcharge on state tax may be levied:

12           (1) Prior to:

13           (A) January 1, 2007, if the county surcharge on state  
 14 tax was established by an ordinance adopted prior  
 15 to December 31, 2005;

16           (B) January 1, 2019, if the county surcharge on state  
 17 tax was established by the adoption of an  
 18 ordinance after June 30, 2015, but prior to  
 19 June 30, 2018; [e#]

20           (C) January 1, 2020, if the county surcharge on state  
 21 tax was established by the adoption of an



1 ordinance on or after June 30, 2018, but prior to  
 2 March 31, 2019; [~~and~~] or  
 3 (D) January 1, 2025, if the county surcharge on state  
 4 tax was established by the adoption of an  
 5 ordinance on or after March 31, 2019, but prior  
 6 to December 31, 2023; and  
 7 (2) After December 31, 2030."

PART III

9 SECTION 5. Section 23-14, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) Beginning on September 5, 2017, and ending on  
 12 December 31, 2031, the auditor, on an annual basis, shall  
 13 conduct a review of any rapid transportation authority in the  
 14 State charged with the responsibility of constructing,  
 15 operating, or maintaining a locally preferred alternative for a  
 16 mass transit project that receives moneys from a surcharge on  
 17 state tax established pursuant to section 46-16.8, transient  
 18 accommodations tax revenues pursuant to section 237D-2(e), or  
 19 both. The annual review shall include a review of documents,  
 20 including but not limited to invoices, contracts, progress  
 21 reports, and time schedules, to determine that:



1 (1) Expenditures by the authority comply with the criteria  
2 established pursuant to section [~~46-16.8(e);~~]  
3 46-16.8(f); and

4 (2) The authority follows accounting best practices for  
5 substantiating its expenditures."

6 SECTION 6. Section 40-81.5, Hawaii Revised Statutes, is  
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) Beginning on September 5, 2017, and ending on  
10 December 31, 2031, the comptroller, upon the request for payment  
11 by the rapid transportation authority, shall verify that the  
12 authority's invoices for the capital costs of a locally  
13 preferred alternative for a mass transit project comply with  
14 section [~~46-16.8(e);~~] 46-16.8(f)."

15 2. By amending subsection (c) to read:

16 "(c) After submission of invoices by the rapid  
17 transportation authority for capital costs of a locally  
18 preferred alternative for a mass transit project are verified by  
19 the comptroller as an acceptable use of funds received pursuant  
20 to a surcharge on state tax authorized pursuant to  
21 section 46-16.8, the comptroller shall submit a certification



1 statement, including any appropriate supporting documents, to  
2 the department of budget and finance for the allocation of  
3 funds, if available, pursuant to sections 248-2.7 and  
4 248-2.6(d). The certification statement shall include, at a  
5 minimum, the total amount contained in the invoices for capital  
6 costs that are verified as an appropriate use of funds pursuant  
7 to section [~~46-16.8(e)~~] 46-16.8(f)."

8 SECTION 7. Section 248-2.7, Hawaii Revised Statutes, is  
9 amended by amending subsection (c) to read as follows:

10 "(c) Upon receiving a certification statement from the  
11 comptroller pursuant to section 40-81.5, the director of finance  
12 shall allocate and disburse moneys in the mass transit special  
13 fund to the director of finance of a county with a population  
14 greater than five hundred thousand; provided that the director  
15 of finance shall only disburse those amounts that are certified  
16 in the certification statement for that county for the purposes  
17 specified in section 46-16.8; provided further that revenues  
18 allocated from the special fund shall not be used for:

19 (1) Operating or maintenance costs of the mass transit  
20 project or any purpose not consistent with section  
21 [~~46-16.8(e)~~] 46-16.8(f); or





**Report Title:**

Surcharge on State Tax; Extension; Amendment; Housing  
Infrastructure

**Description:**

Extends the period in which a county may adopt a surcharge on state tax, under certain conditions, from 3/31/2019 to 12/31/2023. Authorizes the use of county surcharge revenues for housing infrastructure. Temporarily authorizes counties that have previously adopted a surcharge on state tax to amend the rates and uses of the surcharge. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

